

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**H & Q PROPERTIES, INC., A
Nebraska corporation,
MARK HOULTON and
JOHN QUANDAHL**

Plaintiffs,

vs.

**DAVID E. DOLL; DOUBLE D
PROPERTIES, LLC, a Nebraska
limited liability company; DDE, INC.,
a Nebraska corporation f/k/a Double D
Excavating, Inc.; NHGC INC.,
a Nebraska corporation, f/k/a Double D
Hook-N-Go Containers, Inc.;
NEBRASKA LOWBOY SERVICES,
INC., an Iowa corporation;
LOAD RITE EXCAVATING, LLC, a
Nebraska limited liability company;
DOLL CONSTRUCTION, LLC, a
Nebraska limited liability company;
NEW ERA CONSTRUCTION
COMPANY, a Nebraska corporation;
MALVERN TRUST & SAVINGS
BANK, an Iowa state-chartered bank,**

Defendants.

Case No. 8:13CV38

**MOTION TO DISMISS PLAINTIFFS'
AMENDED COMPLAINT**

COMES NOW, Defendants David E. Doll, Double D Properties, LLC, HNGC, Inc., Nebraska Low Boy Services, Inc., and Double D Excavating, Inc. (collectively, the “Doll Defendants”), and move the Court for an order dismissing Plaintiffs’ Amended Complaint filed December 30, 2013. In support hereof, the Doll Defendants state as follows:

1. Plaintiffs filed their Amended Complaint, Filing No 80, on December 30, 2013.

2. Plaintiffs assert various causes of action, including three (3) causes of action alleging RICO violations asserting predicate acts of bank fraud, mail fraud and wire fraud.

3. The Doll Defendants move to dismiss Plaintiffs' Amended Complaint under Fed. R. Civ. P. 12.

4. The Amended Complaint must be dismissed because:

- a. Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted.
- b. Plaintiffs lack standing to bring their RICO causes of action.
- c. Plaintiffs have failed to plead their fraud allegations with sufficient particularity.
- d. Upon dismissal of Plaintiffs' federal law claims, the Court should dismiss the state law claims.

5. Plaintiffs are unable to correct the deficiencies in their RICO allegations to support a RICO claim against the Doll Defendants, and therefore, further amendment of the complaint should be denied.

WHEREFORE, the Doll Defendants request the Court enter an order dismissing Plaintiff's RICO claims with prejudice, dismiss the state law claims, and grant such other and further relief as is just and equitable.

Dated this 12th day of February 2014.

DAVID E. DOLL; DOUBLE D PROPERTIES, LLC; DDE, INC., NHGC INC.; NEBRASKA LOWBOY SERVICES, INC., and DOUBLE D EXCAVATING, INC., Defendants

By: /s/ Kathryn J. Derr
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THEIR ATTORNEY

CERTIFICATE OF SERVICE

The undersigned certifies that on the 12th day of February 2014, I electronically filed the above-referenced pleading in the above-captioned case with Clerk of the United States Bankruptcy Court using the CM-ECF System which sent electronic notification of such filing to those parties receiving electronic notice herein.

/s/ Kathryn J. Derr